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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,801	11/16/2001	Kimberly Miller McLoughlin	DDB000894-000	5619

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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 03/28/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/991,801	Applicant(s) MCLOUGHLIN ET AL.	
	Examiner Cephia D. Toomer	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 15 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>9</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the amendment filed January 15, 2003 in which claims 1-19 were amended.

The corrected drawings were received on January 15, 2003. These drawings changes are approved and new formal drawings should be submitted.

The rejection of claim 13 under 35 USC 112, second paragraph is withdrawn in view of the amendment to the claim.

The rejections of the claims under 35 USC 103 (a) as being unpatentable over Orloff or Cohen are withdrawn in view of the amendment to the claims.

Claims Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calabrese (US 6,348,514 or WO99/16821) in view of Sanders (US 5,324,798) .

Calabrese teaches a composition for stabilizing organic material that is susceptible to thermal and/or oxidative degradation wherein such materials include polypropylene and mineral oils (see col. 2, lines 49-53, 62; col. 3, lines 1-7). The stabilizing composition comprises 0.01-5% of octadecyl-3,5-di-tert-butyl-4-hydroxy hydrocinnamate and tris(nonylphenyl)phosphite or tris(2,4-di-t-butylphenyl)phosphite as stabilizers (see col. 3, lines 29-38, 43, 58-59; col. 4, lines 33-39). Calabrese also teaches that mixtures of the stabilizers may be used (see col. 3, lines 67 through col. 4,

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lines 1-5). Calabrese teaches the limitations of the claims other than the differences that are discussed below.

In the first aspect, Calabrese differs from the claims in that he does not specifically teach that the stabilizer additives are incorporated into the polymeric material by use of a carrier fluid (claims 1 and 14). However, Sanders teaches this difference.

Sanders teaches a polymer finishing process (polyolefins, such as polypropylene) wherein stabilizers and general-purpose additives are added to the polymers in the form of a liquid, solution or dispersion. The liquid used to incorporate the additives may be mineral oil (see abstract; col. 5, lines 1-42; col. 3, lines 5-6, 15-21).

It would have been obvious to one of ordinary skill in the art to have used a carrier to incorporate the additives into the polymeric material because Sanders teaches that this method of adding the compounds does not adversely affect the polymerization reaction or post-reactor processing. Sanders also teaches that this method of delivery also enhances the transfer of the additives (see col. 3, lines 8-21).

In the second aspect, Calabrese differs from the claims in that he does not specifically teach the ratio of phenol to phosphite. However, no unobviousness is seen in this difference because Calabrese teaches that the amount of the stabilizers would vary depending on the material that needs to be stabilized. The skilled artisan having the prior art before him/her would recognize that the ratio of the phenol to phosphite is a result effective variable that may be optimized.

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In the third aspect, Calabrese differs from the claims in that he does not specifically teach a method for improving the melt viscosity of polypropylene. However, applicant's recognition of an additional albeit possibly unrecognized benefit attendant upon practicing the method of Calabrese cannot serve as a basis to withdraw from the public domain that which is already therein. *In re Wiseman*, 201 USPQ 638 (CCPA 1979); *In re May*, 197 USPQ 601 (CCPA 1978); *In re Tomlinson*, 150USPQ 623 (CCPA 1966). Mere recognition of latent properties in the prior art does not render nonobvious an otherwise known invention. *In re Prindle*, 132 USPQ 282 (CCPA 1962).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 411628.

EP teaches a process for the stabilization of polyolefins, such as polypropylene. The stabilizer includes 0.02 to 0.015% of organic phosphites; 0.025 to 0.2 % of at least one phenolic antioxidant and one or more diluents (see abstract; page 9, lines 27-31). The phosphites include tris(nonylphenyl) phosphite; the phenolic compound may be 3-(3,5-di-tert-butyl-4-hydroxyphenyl)propionate; and the diluent may be a paraffin oil (see page 4, lines 11-15; page 6, lines 13-19; page 8, lines 35-39).

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Accordingly, EP teaching all the material limitations of the claims, anticipates the claims.

5. Applicant's arguments filed have been fully considered but they are not persuasive.

Applicant argues that while Calabrese teaches the claimed category of components, Applicant is of the opinion that there is no motivation to use the specific compounds of the claimed invention. Applicant argues that Calabrese is concerned about preventing scorch and not about the manufacturing of polypropylene fibers.

Calabrese teaches that the composition contains a phenolic ester antioxidant and that other stabilizers may be added to the phenolic stabilizer composition. As recited in the claims of Calabrese, the preferred stabilizers include those of the present invention. These teachings suggest what Applicant has done. Furthermore, Applicant has not shown any unexpected results with the use of the claimed stabilizers, nor are the showings commensurate in scope with the claims.

Calabrese does not teach a method of improving the melt viscosity of polypropylene for the use in fiber processing. However, applicant's recognition of an additional albeit possibly unrecognized benefit attendant upon practicing the method of Calabrese cannot serve as a basis to withdraw from the public domain that which is already therein. *In re Wiseman*, 201 USPQ 638 (CCPA 1979); *In re May*, 197 USPQ 601 (CCPA 1978); *In re Tomlinson*, 150USPQ 623 (CCPA 1966). Mere recognition of latent properties in the prior art does not render nonobvious an otherwise known invention. *In re Prindle*, 132 USPQ 282 (CCPA 1962).

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6. The prior art made of record (International Search Report) and not relied upon is considered pertinent to applicant's disclosure. EP 629720 teaches a polypropylene containing stabilizers, but does not specifically teach a liquid carrier.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 703-308-2509. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

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872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Cephia D. Toomer
Primary Examiner
Art Unit 1714

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March 19, 2003